



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

(A-821-822)

Certain Cold-Rolled Steel Flat Products from the Russian Federation: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (“Department”) determines that cold-rolled steel flat products (“cold-rolled steel”) from the Russian Federation (“Russia”) are being, or are likely to be, sold in the United States at less than fair value (“LTFV”). The period of investigation (“POI”) is July 31, 2014, through June 30, 2015. The final dumping margins of sales at LTFV are listed below in the “Final Determination” section of this notice.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*.]

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita, Eve Wang or Alex Rosen, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4243, (202) 482-6231 or (202) 482-7814, respectively.

## SUPPLEMENTARY INFORMATION:

### Background

On March 8, 2016, the Department published the *Preliminary Determination* of this antidumping duty (“AD”) investigation and invited parties to comment.<sup>1</sup> As provided in section 782(i) of the Act, in April and May 2016, the Department verified the sales and cost data reported by Severstal Export GmbH and PAO Severstal (collectively “Severstal”) and Novex Trading (Swiss) SA and Novolipetsk Steel OJSC (collectively “NLMK”), the two mandatory respondents in this investigation. In June 2016, ArcelorMittal USA LLC (“ArcelorMittal”), on behalf of Petitioners,<sup>2</sup> Severstal, and NLMK submitted case briefs and rebuttal briefs. For a complete discussion of the events that occurred since the *Preliminary Determination*, see the Issues and Decision Memorandum.<sup>3</sup>

### Scope of the Investigation

The products covered by this investigation are cold-rolled steel from the Russian Federation. For a complete description of the scope of this investigation, see the “Scope of the Investigation,” in Attachment II of this notice.

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<sup>1</sup> See *Certain Cold-Rolled Steel Flat Products from the Russian Federation: Affirmative Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances, and Postponement of Final Determination*, 81 FR 12072 (March 8, 2016) (“*Preliminary Determination*”).

<sup>2</sup> Petitioners are AK Steel Corporation, ArcelorMittal USA LLC, Nucor Corporation, Steel Dynamics, Inc., and United States Steel Corporation.

<sup>3</sup> See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, “Issues and Decision Memorandum for the Final Determination in the Antidumping Duty Investigation of Certain Cold-Rolled Steel Flat Products from the Russian Federation,” dated concurrently with this notice (“Issues and Decision Memorandum”).

## Scope Comments

In accordance with the Preliminary Scope Decision Memorandum,<sup>4</sup> the Department set aside a period of time for parties to address scope issues in case briefs or other written comments on scope issues.

For a summary of the product coverage comments and rebuttal responses submitted to the record of the cold-rolled steel investigations, and accompanying discussion and analysis of all comments timely received, *see* the Final Scope Decision Memorandum.<sup>5</sup> The Final Scope Decision Memorandum is incorporated by, and hereby adopted by, this notice.

## Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum, which is incorporated by reference and hereby adopted by this notice. A list of the issues raised is attached to this notice as Attachment I. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS"). ACCESS is available to registered users at <https://access.trade.gov> and it is available to all parties in the Central Records Unit, room B-8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

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<sup>4</sup> See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Certain Cold-Rolled Steel Products From Brazil, the People's Republic of China, India, Japan, the Republic of Korea, the Russian Federation, and the United Kingdom: Scope Comments Decision Memorandum for the Preliminary Determinations," dated February 29, 2016 ("Preliminary Scope Decision Memorandum").

<sup>5</sup> See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Scope Comments Decision Memorandum for the Final Determinations," dated concurrently with this notice ("Final Scope Decision Memorandum").

### Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made certain changes to the margin calculations. For a discussion of these changes, *see* the Issues and Decision Memorandum. We have also revised the all-others rate.

### All-Others Rate

Section 735(c)(5)(A) of the Tariff Act of 1930, as amended (“the Act”) provides that the estimated all-others rate shall be an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding any zero or *de minimis* margins, and margins determined entirely under section 776 of the Act. In this case, because the final dumping margin calculated for NLMK is *de minimis*, we assigned the rate calculated for Severstal as the “all-others” rate in the final determination, in accordance with section 735(c)(5)(A) of the Act.

### Final Determination

The Department determines that the final weighted-average dumping margins are as follows:

Exporter/Producer	Weighted-Average Margin (percent)
Severstal Export GmbH and PAO Severstal	13.36
Novex Trading (Swiss) SA and Novolipetsk Steel OJSC	1.04 ( <i>de minimis</i> )
All Others	13.36

### Disclosure

We intend to disclose the calculations performed within five days of the publication of this notice to interested parties, in accordance with 19 CFR 351.224(b).

### Final Affirmative Determination of Critical Circumstances, In Part

On February 29, 2016 the Department found that critical circumstances existed for merchandise exported by Severstal and NLMK, as well as for “all others.”<sup>6</sup> Based on the final sales data submitted by Severstal and NLMK and further analysis following the *Preliminary Determination*, we are modifying our findings for the final determination, in part. For the final determination, with respect to NLMK, we have determined that cold-rolled steel is not being, or is not likely to be, sold in the United States at LTFV and, thus, we are issuing a negative critical circumstances determination. With respect to Severstal, our analysis of Severstal revised reported monthly data demonstrates that Severstal’s shipments of cold-rolled steel during the comparison period increased less than 15 percent over the respective imports in the base period, and thus, we are issuing a negative critical circumstances determination. For all others, we relied on NLMK’s reported shipment data and Severstal’s revised shipment data and determined that the imports during the comparison period increased more than 15 percent over the respective imports under the same methodology as in the *Preliminary Determination*. Accordingly, we determine that critical circumstances did not exist with regard to NLMK’s or Severstal’s imports of cold-rolled steel, but existed with regard to all others. For a complete discussion of this issue, *see* the “Final Determination of Critical Circumstances, In Part” section of the Issues and Decision Memorandum.

### Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (“CBP”) to continue to suspend liquidation of all appropriate entries of cold-rolled steel from Russia as described in the “Scope of the Investigation” section, which are entered, or withdrawn from warehouse, for consumption on or after March 8, 2016,

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<sup>6</sup> *See Preliminary Determination.*

the date of publication in the *Federal Register* of the affirmative *Preliminary Determination*. Because of our affirmative determination of critical circumstances for “all others,” in accordance with section 735(a)(3) and (c)(4)(C) of the Act, suspension of liquidation of cold-rolled steel from Russia, as described in the “Scope of the Investigation” section, shall apply, for “all others,” to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of the *Preliminary Determination*. Because we find in this final determination that critical circumstances do not exist for Severstal, we will terminate the retroactive suspension of liquidation ordered at the *Preliminary Determination* and release any cash deposits that were required during that period, consistent with section 735(c)(3) of the Act. For NLMK, which includes Novex Trading (Swiss) SA and Novolipetsk Steel OJSC, because this entity’s estimated weighted-average final dumping margin is *de minimis*, we are directing CBP to terminate suspension of liquidation of entries of cold-rolled steel produced and exported by this entity.

Further, pursuant to 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit equal to the weighted-average amount by which normal value exceeds U.S. price as follows: (1) for the mandatory respondent listed above, the cash deposit rate will be equal to the dumping margin which the Department determined in this final determination adjusted, as appropriate, for export subsidies found in the final determination of the companion countervailing duty investigation;<sup>7</sup> (2) if the exporter is not a firm identified in this investigation, but the producer is, the cash deposit rate will be the rate established for the producer of the subject merchandise; and (3) the cash deposit rates for all other producers or exporters will be

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<sup>7</sup> In this case, although the product under investigation is also subject to a countervailing duty investigation, the Department found no countervailing duty determined to constitute an export subsidy. Therefore, we did not offset the cash deposit rates shown above for purposes of this determination.

13.36 percent, as discussed in the “All-Others Rate” section above. The suspension of liquidation instructions will remain in effect until further notice.

#### International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (“ITC”) of the final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of certain cold-rolled steel from Russia no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

#### Notification Regarding Administrative Protective Orders (“APO”)

This notice serves as a reminder to parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a violation subject to sanction.

This determination and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: July 20, 2016.

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Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

## **Attachment I**

### **List of Topics Discussed in the Issues and Decision Memorandum**

#### **I. Summary**

- II. Background
- III. Scope of the Investigation
- IV. Final Determination of Critical Circumstances, In Part
- V. Changes Since the Preliminary Determination
- VI. List of Comments
- VII. Discussion of the Issues

- Comment 1: Application of Adverse Facts Available (“AFA”) for Severstal
- Comment 2: Classification of Severstal Export’s Sales through SSE Miami
- Comment 3: Treatment of SSE Miami’s Indirect Selling Expenses in the Determination of U.S. Price
- Comment 4: The Use of Zeroing in Severstal’s Margin Analysis
- Comment 5: Calculation of Severstal Export’s U.S. Customs Clearance Costs
- Comment 6: Financial Expenses and Foreign Exchange Losses for Severstal
- Comment 7: Missing Costs for Severstal
- Comment 8: Cost for Products Sold but not Produced During the POI for Severstal
- Comment 9: Major Inputs for Severstal
- Comment 10: Financial Expense Ratio Calculation for Severstal
- Comment 11: Ministerial Errors for Severstal
- Comment 12: NLMK’s Date of Sale for the U.S. Sales
- Comment 13: Reserve for Doubtful Debts in NLMK’s Indirect Selling Expenses
- Comment 14: NLMK’s Other Income and Expense Items
- Comment 15: Allocation of the Parent Company’s Expenses to NLMK
- Comment 16: NLMK’s Net Financial Expense Ratio
- Comment 17: Minor Corrections in NLMK’s Margin Calculation

#### **VIII. Recommendation**

## **Attachment II**

### **Scope of the Investigation**

The products covered by this investigation are certain cold-rolled (cold-reduced), flat-rolled steel products, whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances. The products covered do not include those that are clad, plated, or coated with metal. The products covered include coils that have a width or other lateral measurement (“width”) of 12.7 mm or greater, regardless of form of coil (*e.g.*, in successively superimposed layers, spirally oscillating, etc.). The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness of 4.75 mm or more and a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.*, products which have been “worked after rolling” (*e.g.*, products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

(1) where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, and

(2) where the width and thickness vary for a specific product (*e.g.*, the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, *etc.*), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this investigation are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten (also called wolfram), or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (“IF”)) steels, high strength low alloy (“HSLA”) steels, motor lamination steels, Advanced High Strength Steels (“AHSS”), and Ultra High Strength Steels (“UHSS”). IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Motor lamination steels contain micro-alloying levels of elements such as silicon and aluminum. AHSS and UHSS are considered high tensile strength and high elongation steels, although AHSS and UHSS are covered whether or not they are high tensile strength or high elongation steels.

Subject merchandise includes cold-rolled steel that has been further processed in a third country, including but not limited to annealing, tempering, painting, varnishing, trimming, cutting, punching, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the cold-rolled steel.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this investigation unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of this investigation:

- Ball bearing steels;<sup>8</sup>
- Tool steels;<sup>9</sup>
- Silico-manganese steel;<sup>10</sup>
- Grain-oriented electrical steels (“GOES”) as defined in the final determination of the U.S. Department of Commerce in *Grain-Oriented Electrical Steel from Germany, Japan, and Poland*.<sup>11</sup>

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<sup>8</sup> Ball bearing steels are defined as steels which contain, in addition to iron, each of the following elements by weight in the amount specified: (i) not less than 0.95 nor more than 1.13 percent of carbon; (ii) not less than 0.22 nor more than 0.48 percent of manganese; (iii) none, or not more than 0.03 percent of sulfur; (iv) none, or not more than 0.03 percent of phosphorus; (v) not less than 0.18 nor more than 0.37 percent of silicon; (vi) not less than 1.25 nor more than 1.65 percent of chromium; (vii) none, or not more than 0.28 percent of nickel; (viii) none, or not more than 0.38 percent of copper; and (ix) none, or not more than 0.09 percent of molybdenum.

<sup>9</sup> Tool steels are defined as steels which contain the following combinations of elements in the quantity by weight respectively indicated: (i) more than 1.2 percent carbon and more than 10.5 percent chromium; or (ii) not less than 0.3 percent carbon and 1.25 percent or more but less than 10.5 percent chromium; or (iii) not less than 0.85 percent carbon and 1 percent to 1.8 percent, inclusive, manganese; or (iv) 0.9 percent to 1.2 percent, inclusive, chromium and 0.9 percent to 1.4 percent, inclusive, molybdenum; or (v) not less than 0.5 percent carbon and not less than 3.5 percent molybdenum; or (vi) not less than 0.5 percent carbon and not less than 5.5 percent tungsten.

<sup>10</sup> Silico-manganese steel is defined as steels containing by weight: (i) not more than 0.7 percent of carbon; (ii) 0.5 percent or more but not more than 1.9 percent of manganese, and (iii) 0.6 percent or more but not more than 2.3 percent of silicon.

<sup>11</sup> *Grain-Oriented Electrical Steel from Germany, Japan, and Poland: Final Determinations of Sales at Less Than Fair Value and Certain Final Affirmative Determination of Critical Circumstances*, 79 Fed. Reg. 42,501, 42,503 (Dep’t of Commerce, July 22, 2014) (“*Grain-Oriented Electrical Steel from Germany, Japan, and Poland*”). This determination defines grain-oriented electrical steel as “a flat-rolled alloy steel product containing by weight at least 0.6 percent but not more than 6 percent of silicon, not more than 0.08 percent of carbon, not more than 1.0 percent

Non-Oriented Electrical Steels (“NOES”), as defined in the antidumping orders issued by the U.S. Department of Commerce in *Non-Oriented Electrical Steel from the People’s Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan*.<sup>12</sup>

The products subject to this investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7209.15.0000, 7209.16.0030, 7209.16.0060, 7209.16.0070, 7209.16.0091, 7209.17.0030, 7209.17.0060, 7209.17.0070, 7209.17.0091, 7209.18.1530, 7209.18.1560, 7209.18.2510, 7209.18.2520, 7209.18.2580, 7209.18.6020, 7209.18.6090, 7209.25.0000, 7209.26.0000, 7209.27.0000, 7209.28.0000, 7209.90.0000, 7210.70.3000, 7211.23.1500, 7211.23.2000, 7211.23.3000, 7211.23.4500, 7211.23.6030, 7211.23.6060, 7211.23.6090, 7211.29.2030, 7211.29.2090, 7211.29.4500, 7211.29.6030, 7211.29.6080, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7225.50.6000, 7225.50.8080, 7225.99.0090, 7226.92.5000, 7226.92.7050, and 7226.92.8050. The products subject to the investigation may also enter under the following HTSUS numbers: 7210.90.9000, 7212.50.0000, 7215.10.0010, 7215.10.0080, 7215.50.0016, 7215.50.0018, 7215.50.0020, 7215.50.0061, 7215.50.0063, 7215.50.0065, 7215.50.0090, 7215.90.5000, 7217.10.1000, 7217.10.2000, 7217.10.3000, 7217.10.7000, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.19.0000, 7226.19.1000, 7226.19.9000, 7226.99.0180, 7228.50.5015, 7228.50.5040, 7228.50.5070, 7228.60.8000, and 7229.90.1000.

The HTSUS subheadings above are provided for convenience and U.S. Customs purposes only. The written description of the scope of the investigation is dispositive.

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of aluminum, and no other element in an amount that would give the steel the characteristics of another alloy steel, in coils or in straight lengths.”

<sup>12</sup> *Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan: Antidumping Duty Orders*, 79 Fed. Reg. 71,741, 71,741-42 (Dep’t of Commerce, Dec. 3, 2014)(“*Non-Oriented Electrical Steel from the People’s Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan*”). The orders define NOES as “cold-rolled, flat-rolled, alloy steel products, whether or not in coils, regardless of width, having an actual thickness of 0.20 mm or more, in which the core loss is substantially equal in any direction of magnetization in the plane of the material. The term ‘substantially equal’ means that the cross grain direction of core loss is no more than 1.5 times the straight grain direction (i.e., the rolling direction) of core loss. NOES has a magnetic permeability that does not exceed 1.65 Tesla when tested at a field of 800 A/m (equivalent to 10 Oersteds) along (i.e., parallel to) the rolling direction of the sheet (i.e., B800 value). NOES contains by weight more than 1.00 percent of silicon but less than 3.5 percent of silicon, not more than 0.08 percent of carbon, and not more than 1.5 percent of aluminum. NOES has a surface oxide coating, to which an insulation coating may be applied.”

